

REMARKS

In response to the Final Office Action mailed January 25, 2008, reconsideration of the application is requested in view of the pending claims and following remarks. Claims 15-19, 33-37, 39-49, and 51-60 are pending. Claims 1-14, 20-32, 38, 50, and 61 are canceled. Claims 15, 33, 40, and 50 have been amended. Support for the amendments may be found throughout the specification, for example at page 22, [0094]. No new matter has been introduced in the amendments.

Rejection Under 35 U.S.C. § 112, second paragraph

On page 2 of the Final Office Action mailed January 25, 2008, the Examiner maintains the rejection of claims 15-19, 21, 33-37, 39-49, and 51-60 under 35 U.S.C. § 112, second paragraph, “as being indefinite.” Applicants traverse the rejection.

More specifically, the Examiner asserts that the claims are drawn to detecting “a level of soluble PGA” to detect infection, although other claims recite “a level of soluble PGA” in un-infected subjects. The Examiner concludes that such language makes the claims “unclear how the detection of ‘a level’ of PGA is indicative of bacterial infections or progression if there is already present ‘an average level of soluble PGA in blood samples from humans who have not been infected by said PGA-producing pathogen.” Final Office Action at page 3.

Without acquiescing in the correctness of the rejection, the Applicants have amended the claims to remove the reference to “a level.” For example, claim 15 now recites:

15. A method for detecting bacterial infection by a polyglutamic acid- (PGA-) producing pathogen in a vertebrate of interest, said method comprising detecting soluble PGA in a biological sample from said vertebrate, wherein said soluble PGA is indicative of bacterial infection by a PGA-producing pathogen in said vertebrate.

This renders the claims clear, and is supported in the specification, for example, as follows:

[0094] In one example, the average PGA level in blood samples from *Bacillus anthracis*-free subjects is considered negligible. Thus, a detectable level of soluble

PGA in a blood sample from a subject of interest is suggestive of the infection of *Bacillus anthracis*.

The logical reading of this example language is that the detection of soluble PGA in a blood sample indicates infection. Because the un-infected “level” is negligible, i.e., no detectable “level” is present, the use of the word “level” is superfluous in this context. Hence, its removal from the claim language removes no limitation and simply provides clarity. Applicants respectfully request that the § 112 rejection be withdrawn.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance of the claims are earnestly requested. The Commissioner is hereby authorized to charge any payment deficiency to Deposit Account No. 19-2380 referring to Attorney Docket No. 031673-003000.

Should the Examiner have any questions that would facilitate further prosecution or allowance of this application, the Examiner is invited to contact the Applicants’ representative designated below.

Respectfully submitted,

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